

REMARKS

The above amendments have been provided based on the format described at 1265 Off. Gaz. Pat. Office 87 (December 17, 2002) and as authorized by Deputy Commissioner for Patents, Stephen Kunin on January 31, 2003.

The specification has been amended on pages 42-45 to delete references to website addresses. These addresses were originally provided in the application to increase the assistance provided to the skilled person by offering known locations where additional information was available. While Applicants continue to believe that no adequate basis for requiring the deletion of references to website addresses (as opposed to executable browser code containing a website address) has been provided, the references have been deleted to expedite prosecution of the instant application.

Page 45, section "B", has also been amended to correct clerical errors.

Claims 1 and 2 have been amended to use alternate language directed to the same subject matter of metastatic tumors as understood by the Applicants. The intended scope of the claims have not been narrowed, and support is provided by the claims and specification as originally presented as well as the differentiation of primary tumors and secondary "metastatic" tumors on page 1, lines 15-16; and page 25, lines 21-22.

Claim 16 has been amended to depend from any one of claims 1, 2 or 3 in the alternative. Non-elected claims 17-21 have been cancelled.

No new matter has been introduced, and entry is respectfully requested.

Telephonic Interview on March 11, 2003

Applicants thank Examiner Rawlings for the courtesy of a telephonic interview with the undersigned on March 11, 2003 to discuss issues in the instant application. Based on that discussion, Applicants have amended the specification and claims as provided above in an effort to simplify the issues and advance prosecution of the application.

Applicants point out, however, that claim 3 has not been amended in the manner of claims 1 and 2 above. Indeed, such an amendment would be inappropriate because claim 3 does not relate to "metastatic tumors".

Instead, Applicants point out the express requirement in claim 3 of administering a green porphyrin "to a subject clinically diagnosed with a primary tumor". Applicants believe that there is no disclosure, suggestion or indication of this requirement, as used in the context of the methods of claim 3, in any of the references of record. Therefore, Applicants wish to again point out that claim 3 remains novel and non-obvious over the rejections of record at least for this reason.

Conclusion

In light of the above amendments and remarks, Applicant respectfully submits that claims 1-16 may be indicated as allowable, and early indication to that effect is urged. The Examiner is welcome to contact the undersigned if he determines that further discussions would prove useful.

In the event that the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 273012011100. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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